

EXHIBIT H: PUBLIC FINANCING GUIDELINES

Public improvements, including on-site backbone infrastructure, as well as off-site transportation mitigation will be financed in accordance with the City's adopted procedures for assessing and collecting Developer Impact Fees and Congestion Management Program fees.

This exhibit includes the following information referenced in Section 2.3.11: Infrastructure and mitigation financing; in the RFP

1. Development Impact Fees:

- General Background
- Summary of DIF application
- Summary of DIF Reimbursement Procedure
- Chapter 3.40 Development Impact Fees: Chino Municipal Code (pages 4 to 14 of this document)

2. City of Chino Policy Guidelines Regulating the Use of Public Financing Mechanisms to Finance Public Facilities, (pages 15 to 25 of this document)

1.0 Development Impact Fees

General Background

In 1988, the City of Chino adopted its first Development Impact Fee (DIF) Ordinance and, in 1990, a review and revision was made. These fees were adopted in order to implement the goals and objectives of the city's general plans and related capital facilities needs and to mitigate the various impacts caused by development projects within the City. Because the last review was over 12 years ago and Chino has seen substantial change since that time, City Staff has been working on a DIF upgrade.

Last July, the draft documents supporting proposed upgrades were substantially ready for public hearing and review by the City Council, however, that action was not taken pending further analysis. A large part of that additional analysis included how best to address the College Park Development. It was determined that passage of Measure A would require the inclusion of the College Park infrastructure needs into the citywide DIF; therefore, it was prudent to delay the upgrade until after the vote.

With the November 5 voter approval of Measure A, Staff is now ready to have the College Park Development infrastructure needs included in the Citywide DIF program and is currently moving forward with that effort.

Summary of DIF Application

Chapter 3.40 Of the Chino Municipal Code establishes appropriate fees to insure the necessary funding for the construction of the public improvements resulting from future development.

- DIF exist for the following categories: Bridges, Signals and Thoroughfares; Police Facilities; Fire Facilities; Public Facilities; Parks; Sewers; Water Facilities and Storm Drains.
- The DIF rates are calculated based on distributing the total project costs for each category (E.G. the estimated cost for constructing all of the water mains needed for ultimate citywide buildout) over the available and developable vacant land.
- DIF is charged on a per acre or per residence basis.
- When DIF is calculated on a per acre basis the acre is "adjusted gross acreage." "Adjusted gross acreage" is defined as the gross track acreage minus major or secondary street rights of way, easements for public utilities, city property, and railroads.
- The calculation for DIF is as follows:

$$\text{DIF} = \text{Adjusted Gross acres} \times \text{Rate per acre specified in the city code}$$

Summary of the DIF Reimbursement Procedure

1. All of the following can be found in detail in the Chino Municipal Code, Chapter 3.40.
2. DIF are collected at the time the building permits are issued for the project.
3. The DIF Program contains individual funding accounts for needs associated with Transportation, Police, Fire, Public Facilities, Storm Drains, Water, Sewers and Parks.
4. Whenever, a Developer is conditioned to construct facilities in excess of size, length or capacity needed (known as Master Planned Facilities) for the specific development itself, a reimbursement of DIF is offered.
5. Reimbursement comes only from the appropriate account within the DIF fund. (For example, reimbursement for an oversized Master Planned water main comes only from the Water DIF account).
6. Reimbursement shall be determined as follows:
 - The amount of reimbursement shall be based on the cost of the Master Planned facilities constructed by the Developer.
 - Using a table of unit prices developed by the City Engineer, the construction costs for the oversized facility are estimated. Call this amount "A".
 - The amount of DIF the Developer is required to pay is calculated based on either the number of residential units to be constructed or adjusted gross acres of development. Call this amount "B".
 - If A is greater than B, the Developer shall be given a credit against the specific DIF account for the difference
 - If A is greater than B and the difference exceeds B, then the Developer is entitled to a Reimbursement Agreement.
 - At this point, the City and Developer have an understanding that a Reimbursement Agreement is needed, however, the agreement is not executed until all the work is completed and the final construction costs are known. Call this amount "C"
 - The Reimbursement Agreement is executed with a specific reimbursement amount identified ($C - B = \text{reimbursement amount}$).
 - Reimbursement Agreements have a 10-year lifetime. That is, if the reimbursement is not completed within 10 years, it is lost.
 - If B is greater than A or C, then the Developer must pay the difference to the City.

2.0 Chino Municipal Code

Chapter 3.40 Development Impact Fees

3.40.010 Legislative findings.

The city council of the city finds and declares as follows:

- A. The cost of providing public facilities occasioned by development projects on developing properties within the city far exceeds the revenues generated by fees exacted from such development projects.
- B. The city adopts and incorporates the report from Management Services Institute dated November 6, 1987 entitled "Development Impact Fees Studies for the City of Chino" and the revised report dated April 4, 1988 which establish the need for eight categories of public facilities occasioned by development projects on developing property within the city excluding the East Chino specific plan area, the total cost of said public facilities, the allocation of the total cost of such public facilities among three types of development projects consisting of residential, commercial and industrial development projects, formulas based upon adjusted gross acres to determine the amount of each fee category payable by each type of development project, a specific charge per acre for each category of public facility payable by each developing property for each type of development project, the relationship between the use of the fees and the type of development projects on which the fee is imposed, and the relationship between the need for the public facilities and the type of development projects on which the fees are imposed. The fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by developing properties within the city excluding the East Chino specific plan area.
- C. In order to implement the goals and objectives of the city's general plans and related capital facilities needs and to mitigate the various impacts caused by development projects on developing properties within the city excluding the East Chino specific plan area, certain public facilities and equipment consisting of signals, bridges, thoroughfares, police training equipment, fire facilities and equipment, public facilities and equipment, sewer collection systems, storm drain systems, water facilities systems and water distribution systems must be constructed. Therefore, the city council determines that based upon the reports prepared by the Management Services Institute, the city's general plan, the city master plan and input at public hearings, development impact fees are needed in order to finance these public facilities and to pay for each developing property's fair share of the construction costs of these public facilities. In establishing the impact fees described in this chapter, the city council finds that the fees are consistent with the city's general plan and that it has considered the effects of such fees with respect to the city's housing needs as established in the housing element of the general plan pursuant to Government Code Section 65913.2.

- D. A fee for signals, bridges and thoroughfares is established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following findings:
1. The purpose of the fee is to finance the construction of signals, bridges and thoroughfares in the undeveloped areas within the city;
 2. The fee will be used to construct seventeen traffic signals and two bridges in the undeveloped areas in the city consistent with the circulation element of the city's general plan;
 3. The use of the fee to construct traffic signals and bridges is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate traffic necessitating the use of the fee to construct traffic signals and bridges consistent with the circulation element of the city's general plan.
- E. A fee for police training and equipment is established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following findings:
1. The purpose of the fee is to finance the hiring, training, equipping and housing of new police officers to provide police protection for undeveloped areas within the city;
 2. The fee will be used to hire, train, equip and house new police officers for the undeveloped areas in the city;
 3. The use of the fee to hire, train, equip and house new police officers is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate a demand for police services necessitating the use of the fee to hire, train, equip and house new police officers.
- F. A fee for fire facilities and equipment is hereby established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the relocation of Fire Station 2 and hire, train and equip six paramedics to provide service to the undeveloped areas within the city;
 2. The fee will be used to relocate Fire Station 2 and hire, train and equip six paramedics to serve the undeveloped areas of the city;
 3. The use of the fee to relocate Fire Station 2 and add six paramedics is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate a demand for additional fire and paramedic services necessitating the use of

the fee to relocate Fire Station 2 and hire, train and equip six new paramedics.

- G. A fee for public facilities and equipment is established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the expansion of public facilities for the undeveloped areas within the city;
 2. The fee will be used to expand the civic center and the city yard and to acquire and maintain city vehicles required for the undeveloped areas of the city;
 3. The use of the fee to expand the civic center and the city yard and to acquire and maintain city vehicles is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate population necessitating the use of the fee to expand the civic center and city yard and to acquire and maintain city vehicles.
- H. A fee for sewer collection systems is hereby established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the installation of sewer collection lines in the undeveloped areas within the city;
 2. The fee will be used to install sewer collection lines in the undeveloped areas of the city consistent with the city master plan;
 3. The use of the fee to install sewer collection lines is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects will generate additional sewage flows necessitating the use of the fee to install sewer collection lines consistent with the city master plan.
- I. A fee for storm drain collection systems is hereby established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the installation of water drainage pipelines in the undeveloped areas within the city;
 2. The fee will be used to install water drainage pipelines consistent with the city master plan in the undeveloped areas in the city;
 3. The use of the fee to install water drainage pipelines is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate additional water drainage necessitating the use of the fee to install water drainage pipelines consistent with the city master plan.

- J. A fee for water facilities systems is hereby established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the installation of reservoirs, wells and major transmission lines for the undeveloped areas within the city;
 2. The fee will be used to acquire, construct and improve Reservoir #5, design Reservoir #5 and related transmission lines, construct transmission lines between Reservoirs #3 and #4, and design and construct a telemetry system for the undeveloped areas in the city consistent with the city master plan;
 3. The use of the fee to acquire, construct and improve Reservoir #5, design Reservoir #5 and related transmission lines, construct transmission lines between Reservoirs #3 and #4, and design and construct a telemetry system is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate additional need for water and water pressure necessitating the use of the fee to construct reservoirs, wells and major transmission lines consistent with the city master plan.
- K. A fee for water distribution systems is hereby established for each developing property in the city excluding the East Chino specific plan area which fee is predicated upon the following:
1. The purpose of the fee is to finance the installation of small water transmission lines in the undeveloped areas within the city;
 2. The fee will be used to install small water transmission lines in the undeveloped areas of the city consistent with the city master plan;
 3. The use of the fee to install small water transmission lines is necessary for the development of residential, commercial and industrial projects;
 4. Residential, commercial and industrial development projects generate additional water demand necessitating the use of the fee to install small water transmission lines consistent with the city master plan.
- L. Any judicial action or proceeding to attack, review, set aside, void or null this ordinance shall be brought within one hundred twenty days.
- M. A fee for park and open space projects is established for each developing property in the city which fee is predicated upon the following findings:
1. The purpose of the fee is to finance the acquisition of open space and development of park facilities for undeveloped areas within the city;
 2. The fee will be used to acquire open space and develop park facilities consistent with the general plan for the undeveloped areas in the city;
 3. The use of the fee to acquire open space and develop park facilities is necessary for the development of commercial and industrial projects

which contribute to the loss of open space and increase in day time population and use of open space and park facilities;

4. Commercial and industrial development projects generate a demand for open space and park facilities necessitating the use of the fee to acquire open space and develop additional park facilities. (Ord. 90-34 § 3, 1991; Ord. 89-2 § 1, 1989; Ord. 88-22 (part), 1988.)

3.40.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this section:

- A. "Adjusted gross acreage" shall mean the gross tract area less major and secondary street rights of way and less easements for public utilities, city property, schools and railroads.
- B. "Developing property" means any property upon which no structures currently exist at the time of permit application.
- C. "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.
- D. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the city to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477 of the Government Code, nor fees for processing applications for regulatory actions or approvals, nor fees collected under development agreements.
- E. "Public facilities" includes public improvements, public services and community amenities.
- F. "Redeveloping property" means any property upon which structures are currently in existence at the time of permit application. (Ord. 89-2 § 2, 1989; Ord. 88-22 (part), 1988.)

3.40.030 Development impact fees.

The following development impact fees are created and imposed for each of the following specified categories of public facilities:

- A. Signals, Bridges and Thoroughfare Fees. A fee is established for signals, bridges and thoroughfares on development projects within the following zones in the city, excepting the East Chino specific plan area:

Fee Per Acre

	March 1, 1991	March 1, 1992	March 1, 1993
1. Residential Property	\$ 2,413.08	\$3,837.43	\$ 5,261.77
2. Commercial Property	\$17,736.49	\$28,205.71	\$38,674.95
3. Industrial Property	\$7,329.66	\$11,655.99	\$15,982.34

- B. Police Training and Equipment Fees. A fee is established for fire facilities and equipment projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 1,572 per acre
 2. Commercial Property 863 per acre
 3. Industrial Property 863 per acre
- C. Fire Facilities and Equipment Fees. A fee is established for fire facilities and equipment projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 626.93 per acre
 2. Commercial Property 1,568.72 per acre
 3. Industrial Property 1,567.81 per acre
- D. Public Facilities and Equipment Fees. A fee is established for public facilities and equipment projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 1,836.62 per acre
 2. Commercial Property 1,838.03 per acre
 3. Industrial Property 1,836.94 per acre
- E. Storm Drain Collection System Fees. A fee is hereby established for storm drain collection system projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 4,294 per acre
 2. Commercial Property 5,226 per area
 3. Industrial Property 5,226 per acre
- F. Water Facilities System Fees. A fee is established for water facilities system projects within the following zones in the city excepting the East Chino specific plan area;
1. Residential Property \$ 1,391 per acre
 2. Commercial Property 1,622 per acre
 3. Industrial Property 2,163 per acre

- G. Water Distribution System Fees. A fee is established for water distribution system projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 2,093 per acre
 2. Commercial Property 2,442 per acre
 3. Industrial Property 3,255 per acre
- H. Sewer Collection System Fees. A fee is established for sewer collection system projects within the following zones in the city, excepting the East Chino specific plan area:
1. Residential Property \$ 942 per acre
 2. Commercial Property 1,883 per acre
 3. Industrial Property 2,009 per acre
- I. When each fee levied by this section is determined, then each of the then-existing city general overhead and applicable departmental overhead rates shall be added to the fee and collected. Amounts collected as overhead rates shall be transferred from the development impact fee fund to the city general fund to defray the cost reasonably borne of the collection and administration of the fees imposed by this chapter.
- J. Park Development Fee. A fee is established for park and open space projects within the following zones in the City of Chino:
1. Residential Property \$ 0
 2. Commercial Property .09 per sq. ft. of bldg.
 3. Industrial Property .09 per sq. ft. of bldg.
- K. Findings on Fee Increase. The increases set forth in this section from their previous levels are based upon the report prepared by the Management Services Department entitled "Information for City Council Workshop to Consider Revisions to the City's Development Impact Fees and the Status of the Capital Improvement Plan" dated May 29, 1990; reports submitted by city manager Richard D. Rowe entitled "Additional Information Requested by Council Re: Development Impact Fees" dated August 24, 1990; report prepared by the director of management services entitled "Ordinances Amending the Development Impact Fee Schedules for the City of Chino and for the East Chino Specific Plan Area" dated December 11, 1990; the public meetings held on August 28, 1990 and December 18, 1990; and the public hearing held on December 11, 1990. (Ord. 90-34 § 1, 1991; Ord. 89-1 § 3, 1989; Ord. 88-22 (part), 1988.)

3.40.040 Automatic annual adjustment.

Each fee imposed by this chapter shall be adjusted automatically on January 1st of each year beginning on January 1, 1989, by a percentage equal to the McGraw-Hill Construction Index for Southern California for the preceding twelve months. This

automatic adjustment shall not apply to fees which are based on variable factors which result in automatic adjustments or those which specifically indicate otherwise. (Ord. 88-22 (part), 1988.)

3.40.050 Increase by resolution.

The amount of each fee established by this chapter may be more specifically set and revised periodically by resolution of the city council with this chapter being considered as enabling and directive, and as setting the initial level of rate to be paid. (Ord. 88-22 (part), 1988.)

3.40.060 Creation of special fund and accounts.

- A. There is created a development impact fee fund within the city's fund structure and accounting system, which fund shall contain all fees collected pursuant to this chapter and all interest accruing from the investment of any moneys contained within said fund.
- B. Each fee collected pursuant to this chapter shall be deposited in a special account within the development impact fee fund created to hold the revenue and interest generated by such fee. Moneys within each such account within the fund may be encumbered, obligated or expended only by appropriation or other action of the city council for specific projects which are of the same category as that for which the money was collected. (Ord. 89-2 § 4, 1989; Ord. 88-22 (part), 1988.)

3.40.070 Zoning and use to compute fee.

- A. Except as provided herein, the approved zoning for developing property or redeveloping property shall be used in the computation of the fees required to be paid by any property. If a parcel contains more than one zone, then the applicable fees shall be prorated by acreage attributable to each zone. Public properties shall be classified into the category of use as between residential, commercial, or industrial, and shall pay the fee pursuant to that classification. Interpretations of this section shall be as determined by the city community development director.
- B. Fees for churches, public or private schools, day care centers, congregate care facilities and any other such group or non-commercial use permitted in residential zones shall be computed based on the commercial zone rates contained in this chapter. (Ord. 89-2 § 5, 1989; Ord. 88-22 (part), 1988.)

3.40.080 Payment of fee.

- A. The fees established by this chapter shall be determined for each developing property on which a development project is proposed at the time of application for any required permit. Furthermore, the fees created by this chapter shall be calculated on the basis of adjusted gross acreage. For development projects containing less than one adjusted gross acre, the fee shall be calculated on the

combined areas of the improvements included in the development project. Such fees shall be paid at such time as required by law.

- B. The city reserves the right to impose fees on each redeveloping property pursuant to the provisions of Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code relating to development projects. In such cases, the city shall require the developer to advance to the city any amounts necessary to provide for special studies that may be required to determine the incremental impacts to the city from the development project. The results of such special studies shall form the basis for the amount of fee to be paid by developer. A credit shall be offered against such fees to the extent that any fees were previously paid for the same property within any fee category herein. (Ord. 89-2 § 6, 1989; Ord. 88-22 (part), 1988.)

3.40.090 Exemptions.

No fee shall be payable on any development project of a size or nature less than that set out in this section, within the classifications of development impact fees as follows:

- A. Signals, Bridges and Thoroughfare Fees. No fee shall be paid by any development project consisting of building and parking construction of less than five hundred square feet of occupiable floor area, including patios and driveways; or for a parking area of less than one hundred sixty-two square feet.
- B. Police Training and Equipment Fees. No fee shall be paid by any development project as defined in subsection A of this section.
- C. Fire Facilities and Equipment Fees. No fee shall be paid by any development project as defined in subsection A of this section.
- D. Public Facilities and Equipment Fees. No fee shall be paid by any development project as defined in subsection A of this section.
- E. Storm Drain Collection System Fees. No fee shall be paid by any development project involving any construction that results in an increase in area that would be impervious to water of less than five hundred square feet.
- F. Water Facilities System Fees. No fee shall be paid by any development project consisting of building construction of less than five hundred square feet; or for a parking area of less than one hundred sixty-two square feet, unless such development project includes one or more new water delivery fixtures as defined by the Uniform Plumbing Code, in which case the water facilities system fee shall be applicable and paid.
- G. Water Distribution System Fees. No fee shall be paid by any development project as defined in subsection F of this section.
- H. Sewer Collection System Fees. No fee shall be paid by any development project consisting of building construction of less than five hundred square feet; or for a parking area of less than one hundred sixty-two square feet, unless such development project includes one or more new sewer fixtures as defined by the Uniform Plumbing Code, in which case the sewer collection system fee shall be applicable and paid. Commercial and industrial usages shall pay sewer collection

system fees as herein set out and, in addition thereto, any sewage facility development fee based on and for any increase in biological-oxygen demand (BOD), suspended solids (SS), grease, toxics, volume of sewage discharge and any increase in number of fixtures as determined by rate formulae and criteria as set out by Title 13 of this code. (Ord. 89-2 § 7, 1989; Ord. 88-22 (part), 1988.)

3.40.100 Developer construction of public facilities.

- A. Whenever a developer is required, as a condition of approval of a development permit, to construct a public facility described herein which public facility is determined by the city to have supplemental size, length or capacity over that needed for the impacts of that development, and when such construction is necessary to ensure efficient and timely construction of the public facilities network and the development itself, a reimbursement shall be offered. The reimbursement amount shall not include the portion of the public facility needed to provide services or mitigate the need for the public facility or the burdens created by the development. The specific procedures for reimbursements and credits shall be as set out in this section.
 - 1. The amount of the reimbursement agreement provided for in subsection A of this section shall be based on the construction costs of the public facilities constructed by the developer based on a table of equivalent costs for similar construction which table of equivalent costs shall be developed by the city engineer and revised annually.
 - 2. The actual amount of the reimbursement shall be determined and certified by the city engineer based on the final completion of all public facilities and based on final accepted and approved "as-built" plans and specifications.
 - 3. The reimbursement agreement shall specify the amount of reimbursement to the developer from the development impact fee fund. All such reimbursements shall be paid only from the appropriate account within the development impact fee fund such that reimbursements for any public facility shall be made from the account within the fund containing moneys collected for financing of specific projects of a similar nature to those constructed by the developer who is the holder of the reimbursement agreement.
 - 4. No reimbursement agreement shall be for a period of more than ten years.
- B. Nothing in this section shall relieve any development project from paying the fees set out in Section 3.40.030 of this chapter.
- C. At the option of the city, after acceptance of the public facilities by the city engineer, the developer may be offered one of the following, in lieu of a reimbursement agreement as set out in subsections A and B of this section:
 - 1. Payment in cash; or

2. A ten-year non-interest-bearing note for the amount of the excess public facilities, with the note to be payable only from the appropriate development impact fee fund account, as, if, and when moneys are available within the ten-year period. If no moneys are available, then the note shall expire as unpaid at the end of the ten-year period.
- D. In the event that the required public facilities are constructed by the developer, then the following procedure shall be utilized to calculate the developer's development impact fees:
1. The cost of the public facilities constructed by the developer shall be determined as set out in subsection B of this section.
 2. All applicable development impact fees payable by the development project pursuant to Section 3.40.030 of this chapter shall be computed.
 3. If the development impact fees, or any individual development impact fee required to be computed and paid under the provisions of Section 3.40.030 of this chapter exceeds the amounts under the provisions of subsection (B)(1) of this section, then the development project shall pay the difference into the appropriate account within the development impact fee fund.
 4. If the required development impact fee for any category of fee is less than the cost of public facilities constructed by the developer under the provisions of subsection (B)(1) of this section, then the developer shall be given a credit against said fee in an amount not to exceed the fees which are otherwise payable.
 5. If the required development impact fee for any category of fee is less than the cost of the public facilities constructed the developer under the provisions of subsection (B)(1) of this section, then a reimbursement agreement as set out herein shall be offered for the difference between the construction cost and the fee within each category of fee.
 6. All reimbursement agreements shall be paid only from the appropriate account within the development impact fee fund. (Ord. 89-2 § 8, 1989: Ord. 88-35 § 1, 1988: Ord. 88-22 (part), 1988.)

3.40.110 Fee adjustments.

- A. A developer of any development project subject to the fees described in this chapter may apply to the city council for a reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the impacts of that development and either the amount of the fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the city clerk not later than (1) ten days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at the time of the filing of the request for the building permit. The application shall state in detail the factual basis for the claim of waiver, reduction or adjustment. The city council shall consider the

application at the public hearing on the permit application or at a separate hearing held within sixty days after the filing of the fee adjustment application, whichever is later. The decision of the city council shall be final. If a reduction, adjustment or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee.

- B. Additional reductions, adjustments, waivers, and deferrals of any development impact fee as set out in Section 3.40.030 shall be permitted as set forth in this section.
- C. If any development impact fee or connection charge is paid to another city or utility district other than the city of Chino, which other city or utility district serves a portion of the city of Chino, for property not served by utilities by the city of Chino, then in that event no development impact fee for that classification of development impact fee shall be due and payable to the city of Chino pursuant to Section 3.40.030 hereof. If no development impact fee or connection charge is paid to the other city or utility district, then all applicable development impact fees shall be paid to the city of Chino in full pursuant to the fee schedules established under Section 3.40.030 of this chapter.
- D. The then-existing general overhead rate shall be applied to the computation of any fee due to another city or utility district, which is collected by the city of Chino, and such overhead amount shall be retained by the city, with the fee only being transmitted to the other city or utility district.
- E. A deannexation petition for the parcel of property not served by Chino utilities but served within the city of Chino by another city or utility district, may be entertained by the city of Chino and the payment of development impact fees under Section 3.40.030 hereof deferred until the deannexation petition is disposed of and final jurisdiction determined. No such deferral shall be made for more than one hundred eighty days.
- F. The city council may adjust, reduce or waive any development impact fee as permitted by Chapter 20.70. (Ord. 96-21 § 2, 1996; Ord. 89-2 § 9, 1989; Ord. 88-22 (part), 1988.)

3.40.120 Severability.

If any portion of this chapter is found to be unconstitutional or invalid, the city council declares that it would have enacted the remainder of this chapter regardless of the absence of any such invalid part. (Ord. 88-22 (part), 1988.)

3.40.130 Relationship to existing fees.

The fees established by this section shall supersede all previously established fees for the same development impact fee categories. (Ord. 88-22 (part), 1988.)

CITY OF CHINO

POLICY GUIDELINES REGULATING THE USE OF PUBLIC FINANCING MECHANISMS TO FINANCE PUBLIC FACILITIES

- Mello Roos Community Facilities Act of 1982
- Municipal Improvement Act of 1913/Improvement Bond Act of 1915

Adopted by City Council 1999

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CITY OF CHINO

POLICY GUIDELINES REGULATING THE USE OF PUBLIC FINANCING MECHANISMS TO FINANCE PUBLIC IMPROVEMENTS

I. PURPOSE

This policy document is intended to provide the City with guidelines for evaluating the merits of assisting in the financing of project-related public facilities in which a significant public benefit has been established. These project-related public facilities may be developer/proponent or City initiated.

The public financing mechanisms subject to this policy document is limited to the Mello Roos Community Facilities Act of 1982, and Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915.

The City will exercise a fiscally conservative approach to the use of public financing assistance in order to maintain the City's good financial standing, minimize the impact on the City's general credit and to ensure the appropriate use of these financing mechanisms. The individual and cumulative financial impact of project-related public financing assistance upon the City's credit will be carefully evaluated. The City's fundamental reason for assisting the financing of project-related public facilities is to ensure that: 1) growth within the City occurs in a comprehensive, organized way consistent with the City's General Plan, and 2) that existing City residents don't have to pay for new growth which does not directly benefit them.

It is the City's desire to make these Policy Guidelines available to the community at large so that: 1) the City's policies are clearly communicated, 2) the developer/proponent can make reasonable and realistic business decisions based upon their understanding of the City's willingness to assist in a public financing program, and 3) the significant public benefit requirement for eligibility of public financing is clearly identified.

The City shall make the determination as to which public financing mechanism, if any, shall be used to assist in the construction of a public facility. The City may confer with the applicant to learn of any unique District requirement, such as facilities serving the regional area or long term development phasing, prior to making any final determination. The City prefers to form an assessment district over a community facilities district whenever possible.

When considering a proponent's request to utilize public financing, all costs associated with the process including the fees for all consultants and City staff expense will be paid by the proponent. There will be no cost to the City. In order for the City to process the developer's/proponent's request and prepare the City-developer agreement for deposit of funds to cover the costs, the proponent shall pay the current application fee as set forth in the Fee and Charge Schedule. (See Section V of this policy for additional information.)

II. DEFINITIONS

Unless the context otherwise requires, the terms employed in the following policies shall have the meanings specified below:

“Bonds” means bonds authorized and issued under any of the public financing mechanisms described herein.

“City” means the City of Chino.

“District” means a community facilities district formed under the Mello-Roos Community Facilities Act of 1982 (CFD) or an assessment district formed under the Municipal Improvement Act of 1913.

“Policy” or “Policy Guidelines” means these Policy Guidelines of the City.

“Public Facilities” means improvements authorized to be constructed or acquired under any of the public financing mechanisms described herein.

“Value” or “Fair Market Value” means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of a difficulty or the other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon uses and purposes.

“Act” means Mello-Roos Community facilities Act of 1982 or Improvement Bond Act of 1915 or Municipal Improvement Act of 1913.

III. PUBLIC FINANCING MECHANISMS AND ELIGIBLE PUBLIC FACILITIES AND PRIORITIES

The public financing mechanisms subject to this policy document include the: 1) Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915, and 2) the Mello Roos Community Facilities Act of 1982.

The general types of facilities currently eligible to be financed are listed as follows for each public financing mechanism:

A) Municipal Improvement Act of 1913 and Improvement Bond Act of 1915.

1. Arterial Streets
2. Trunk Sewer Mains
3. Master Area Storm Drains
4. Water Transmission Mains
5. Water, Sewer or Drainage Pumping Plants
6. Non-Tract related Street Lighting
7. Traffic Signals and Safety Lighting
8. Grading necessary to accommodate “Backbone” Infrastructure; including Retaining Walls, Drainage Facilities and Stabilization of Land
9. Government Facilities of specific benefit to the district
10. Parks

11. Ornamental Vegetation Installation and Maintenance

B) Mello Roos Community Facilities Act of 1982

1. Local park, recreation, parkway open-space facilities
2. Elementary and Secondary School sites and structures
3. Libraries
4. Child Care Facilities
5. Utilities (Public Utilities, including flood and storm drainage)
6. Cultural Facilities
7. Police and Fire Protection Services
8. Services with respect to removal or remedial action of hazardous substances
9. In combination with one or more of the foregoing, any of the facilities listed under A above
10. Statutory development fees can not be funded.

PRIORITIES

It is the City's view that a comprehensive policy toward mitigating the service impacts of growth is the best way to foster cooperation in allocating available debt capacity. Therefore, it is the City's intent to work closely with local school districts (and any other agency with District creating authority) to ensure that the maximum tax rate "cap" (see section IV.B.) is not exceeded and homeowners overburdened. In order to ensure that public financing is used in a comprehensive, organized way consistent with the City's General Plan and the Policies outlined in Section IV, the aforementioned eligible public facilities are prioritized below. It is important to note that for residential portions of development projects, the City will not use public financing for normal "in-tract" improvements typically built/installed by the developer/proponent, i.e., local streets, sidewalks, etc. Accordingly the following types of public facilities shall be given priority:

1st Priority Facilities needed to serve a community plan area that is currently deficient in off-site infrastructure needed to develop the area as planned; that is "backbone" infrastructure to support already approved community plan areas.

2nd Priority Other public facilities for which there is a clearly demonstrated public benefit.

3rd Priority Other public facilities permitted by the Acts.

The City reserves the right to make exceptions to these priorities when circumstances warrant (the City is consciously establishing no priority for the use of the Acts in the case of populated areas and registered-voter elections).

IV. GENERAL POLICIES

- A) The City may allow the financing of public improvements under the provisions of this policy where the public facilities represent, in the City's opinion, a significant general public benefit. Accordingly, this policy is established for evaluation of "impact" and determination of "public benefit." Only facilities that provide "general public benefit" will be considered for public financing. Public benefit, for the purpose of this policy, shall be as set forth in the various State statutes under which the financing is proposed to take place. However, all facilities or services set forth as providing "public benefit" in the

various State statutes may not necessarily be deemed appropriate for public financing by the City.

- B) The projected ad valorem property taxes, special taxes, and other direct and overlapping debt for the proposed development project (including projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual tax bill), including the proposed maximum special tax or annual assessment, may not exceed a maximum tax rate of two percent (2.0%) of the anticipated assessed value of each improved parcel ("final use") upon completion of the private and public improvements. Property will be considered in its final use when a final map for single family residential use has been recorded or a final map or parcel map for commercial, industrial, multi-family use has been recorded. The City retains the right to withhold public financing if it determines that such financing is detrimental to its credit rating or to the issuance of other City-planned, land-secured debt. Exceptions may be granted for commercial, industrial and mixed use development projects.

NOTE: The total maximum tax rate applies only to public financing debt actually passed along to the "final use" parcel.

- C) Project property value to lien ratio should be 3:1 including the value after the installation of the public improvements to be financed. The value of the property proposed to be assessed shall be determined by an M.A.I. appraisal, performed by an appraiser selected by the City. If an escrow financing structure is proposed, the 3:1 project property value to lien ratio will be included as one of the escrow release provisions. (Also see section "IV, P").
- D) The proposed development project must be consistent with the City's General Plan. Projects shall be at the stage where all criteria of this policy can be adequately assessed. Developments proposed for inclusion in a District shall have already received environmental review and shall have already received legislative approvals such as zoning, master plans or specific plans. The City Council may approve a District that includes some lands without legislative approvals if the improvements to be constructed are consistent with the general plan and if the City Council finds the improvements required are in the public interest.
- E) Facilities which are, upon completion, owned, operated or maintained by public agencies shall be considered public facilities. Limited exceptions will be made for certain facilities to be owned, operated or maintained by a public utility company.
- F) The City shall select and solely manage/coordinate/direct the work of bond counsel, underwriter, appraiser, assessment engineer, financial advisor, assessment/special district administrator and other professionals and consultants it deems appropriate in accordance with City policy. All consultants shall comply with the regulations of the Fair Political Practices Commission and Section 87100 of the California Government Code.
- G) Improvements shall be constructed and/or acquired, and bonds shall be issued, in accordance with the applicable state statutes.
- H) The City will consider the apportionment of assessments to those properties found to be benefited by the assessment engineer. Notwithstanding the foregoing, the assessment

engineer will review the special benefit to each parcel in order to comply with the requirements of Proposition 218 and applicable State statutes.

The rate and method of special taxes will be structured in such a manner as to result in a fair and reasonable taxing structure. The City and its special tax consultant will consider input from the proponent of the development project.

- I) The proponents of the District must demonstrate to the satisfaction of the City Council that interim financing, capitalized interest and/or other means are available for the development project(s) included within the District to fund public and private improvements and to meet all assessment or special tax obligations between the time that the District is formed and the bonds are paid off or the parcels reach their "final use" and are held by "end users". As part of this review, the City Council may also consider any indebtedness presently existing against the properties to be assessed. The District proponents must bring all property tax bills current and agree to keep them current prior to confirmation of the district.
- J) The City may, at its option, require a fiscal feasibility report if forty percent (40%) or more of the land within a District is substantially undeveloped. The report shall be prepared by or at the direction of the City. All costs for preparing this report shall be borne by the applicant/developer/proponent. An estimate of the report cost will be made prior to initiating the study and the applicant/developer/proponent shall deposit the cost prior to starting the report.
- K) All statements and materials related to the sale of special assessment or Community Facilities District Bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of revenues to repay such bonds shall be the special taxes, annual assessments or funds derived from foreclosure proceedings.
- L) As a part of the structuring of the financing for the District, an adequate reserve fund shall be established to cover any potential defaults. The amount of the reserve fund shall be determined by the City with the advice of the financial advisor and shall not exceed the lesser of maximum annual debt service, one hundred twenty-five percent (125%) of average annual debt service, ten percent (10%) of the amount of the proceeds of any bonds or as otherwise permitted by law.
- M) It is the policy of the City Council in approving basic legislative authorization for developments such as master plans for planned communities, to give such approvals as a part of the City's on-going planning processes. That is, the City reserves the right to modify the approvals in the future as they determine the public interest may require; to the extent that it does not negatively impact the security of any bonds sold. Such approvals when given are subject to a condition that the construction of any part of a development does not vest any rights to complete other portions of the development. Construction of public improvements pursuant to a community facilities district or assessment district on undeveloped land shall not vest any rights to future legislative approvals for the property to be assessed or to any particular level, type or intensity of use. Proponents of a District shall include an acknowledgment of this policy as a part of their petition and shall expressly waive on their behalf and on behalf of their successors and assigns any cause of action based on the case of Fury v. County of Sacramento which might be applicable to the properties to be taxed or assessed.

- N) District proponents shall be responsible for compliance with all applicable federal and state statutory disclosure requirements in transactions with purchasers of properties within the District. District proponents shall provide full disclosure to all prospective, and actual, buyers of property (within the District) of the District's assessment/special tax levy. The District proponents shall submit a full disclosure program for the City's approval prior to the sale of the project's first lot. In advertising the price of the housing the advertised amount shall include a statement that the property is subject to assessments and/or special tax levies.

In addition, the City may require the developer/proponent and its expected successors to provide any and all information required to satisfy the reporting demands of rating agencies or institutional buyers of the bonds.

Subsequent to the sale and issuance of the bonds, federal and state statutes and/or regulations regarding the particular type of financing may require the preparation and reporting of certain information by an "obligated person," as that term is defined under Securities and Exchange Commission Rule 15c2-12, including any and all amendments thereunder.

- O) The City Council adopts the requirements of Section 53345.8 of the Mello-Roos Community Facilities Act of 1982 as sufficient minimum standards for the credit quality of any bonds issued pursuant to that Act.
- P) The City in its discretion may require, and may employ a consultant for the purpose of conducting a market absorption study. The study, if required, shall include an estimate of the total number of units, land uses and rate of absorption, and will be used as a basis for verification that sufficient revenues can be generated, and to determine if the financing of the infrastructure and public facilities is appropriate given the projected level and pace of development. In the case of a phased development, land value appraisal should include the developed land value assuming the infrastructure to be included in the current financing is completed. However, land values for remaining future phases of the development should not assume future infrastructure is completed. The study will also be provided to the appraiser for use in the appraisal process.
- Q) All costs incurred by the City prior to formation of the District, including but not limited to consultant costs (e.g., legal counsel, engineer firms, appraisers, special tax consultants, financial advisors), City staff and administrative costs and related expenses, cost of providing notices, printing and publication costs, and all expenses directly or indirectly relating to these items, shall be advanced to the City by the applicant/developer/proponent prior to formation. Cost advances shall be facilitated by deposit increments in accordance with a required funding and reimbursement agreement between the City and the applicant/developer/proponent. Failure to advance funds as requested by the City will be sufficient justification to suspend further activity by City staff and its consultants.

In the event that the District is not formed due to City disapproval or abandonment, or due to applicant/developer/proponent abandonment, or the District is formed and bonds are not issued for any reason, the City will refund to applicant/developer/proponent any unobligated remaining unexpended and unobligated portion of advance deposits posted with the City, subject to the City's prior and full reimbursement of all its direct and indirect

costs. The City shall be entitled to pay any refund to the applicant/proponent listed on the application form, irrespective of any changes in the ownership or composition of the applicant/proponent.

- R) The City, in conjunction with its financial advisors, shall determine whether the aggregate cost of public improvements and permitted indirect costs, allowable under statute, shall equal an amount which renders formation of a District, both economically, cost-effective and efficient. The size of the bond issue, as determined by the City and its consultants, shall meet industry standards with respect to marketability.

V. FEE AND CHARGE SCHEDULE

The District developer/proponent shall be subject to the following fees and charges and will be applied in the following manner:

Any developer/proponent's financing request or petition to initiate the formation of a special assessment or community facilities district will only be considered after a deposit of a fee to compensate the City for all costs incurred in conducting proceedings has been received. The deposit shall be based on an estimate of all City staff costs coupled with financial feasibility study consultant, bond counsel, disclosure counsel (if used), assessment engineer/special tax consultant, financial advisor, and other costs which may not be retrievable through the bond issue, or are incurred and irretrievable due to nonformation of a district. It is the intent that all of the City's costs be covered. In the event the bond financing requires a "Validation Proceeding," all costs associated therewith will also be the responsibility of the proponent and be deposited with the City.

If, in the judgment of the City, the costs incurred or projected will cause the proponent's deposit to fall below \$5,000, a written demand shall be made to the applicant to advance monies sufficient to bring the account to a balance that is projected to meet remaining costs required to establish the financing district. Failure to advance the requested monies within 10 (ten) days of a written demand by the City will result in all processing of the application to cease and no further actions to be taken toward establishing the financing district until the monies have been received. Waiver of this requirement can be made only by formal action of the City Counsel.

Monies held are to be applied to pay the City and its staff in reviewing and processing the application as well as the costs of the assessment engineer, special tax consultant, appraiser, absorption consultant, financial advisor, legal counsel, all publication expenses, and any other costs determined by the City to be necessary to establish the financing District.

VI. APPLICATION PROCESS

Early communication with the City is encouraged to assist applicants in reviewing these City Policy Guidelines, allowing the City to evaluate the feasibility of available financing programs and to discuss program procedures.

- A) **PREAPPLICATION CONFERENCE:** Applicants meets with City staff to discuss the proposed project and application procedures.

- B) APPLICATION SUBMISSION: Applicant submits an initial application for review by City staff. Applicant pays the District Application Fee (See Section V, Fee and Charge Schedule).
- C) PROJECT REVIEW: Applicant and City staff meet to discuss initial application, including any issues raised and further information that might be required. If necessary, applicant submits revised application.
- D) APPLICATION PROCESSING: Upon City determination that application is complete, staff prepares a staff report which forwards the request for District formation and project financing and staff recommendation to the City Council.
- E) CITY COUNCIL CONSIDERATION: The City Council makes any necessary findings and grants or denies the application, selects consultants (if approval is granted) and either approves contracts or directs staff to negotiate contracts.
- F) PROJECT INITIATION: Staff submits consultant contracts, reimbursement agreements and other similar items for City Council consideration.
- G) PROJECT IMPLEMENTATION: Applicant, staff and consultants meet to determine preliminary project schedule and begin work necessary to initiate District formation.

VII. CRITERIA FOR APPRAISALS

The appraisal Standards for Land Secured Financing published by the California Debt and Investment Advisory Commission and dated May, 1994, are adopted as the appraisal standards for the City of Chino with the following modifications:

- A) Assessor Market Valuations may be used where, in the opinion of the City staff and the City's advisors, they require a conservative valuation of current market value.
- B) The Comparable Sales method may be used whenever there is sufficient data available.
- C) The appraiser should assume the presence of the public infrastructure to be financed with the bonds.
- D) The special tax lien need not be computed as the present value of the future tax payments if there is a pre-payment mechanism or other more appropriate measure.
- E) In the Discounted Cash Flow analysis, the appraiser is to take care that the inclusion of "developer/proponent profit" as a cost, and the setting of the discount rate to include a "risk premium" for *equity* investors, does not amount to "double-counting" for the developer/proponent.

VIII. REQUIREMENTS FOR SPECIAL TAX FORMULAS

The proposed amount and apportionment of the special tax shall comply with the following criteria:

- A) The special tax formula shall be structured to produce sufficient annual special tax revenue to pay: a) Annual debt service, and b) Reasonable annual administrative

expenses and the cost of any services and “pay as you go” programs funded by the CFD special tax. The total projected annual special tax revenues, less estimated annual administrative expenses, must exceed the projected annual gross debt service on the bonds by at least ten percent (10%).

- B) A backup special tax will be required unless the special tax formula is structured in such a manner to avoid special tax revenue loss from changes in densities or product type.
- C) The rate and method of apportionment should not provide for an annual increase in the maximum special tax for residential properties to exceed two percent (2%) annually.
- D) All property with the CFD not otherwise statutorily exempted or owned (or to be owned) by a public entity and to be benefited shall bear its appropriate share of the special tax liability. The special tax formula shall be structured to closely link the tax paid by a property owner with the actual benefit that the property owner receives from the improvement.
- E) The special tax shall be allocated and apportioned on the basis of reasonableness to all categories and classes of property receiving general or specific benefit within the CFD.
- F) A method to partially prepay or completely pay off the special tax after District formation shall be required absent demonstrated impracticality.
- G) For residential components of development projects, the projected ad valorem property tax and other direct and overlapping debt for the proposed CFD (including estimated CFD charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual tax bill), including the proposed maximum special tax, shall not exceed two percent (2%) of the anticipated initial sales price to the ultimate home buyer. Any deviations from the foregoing will not be permitted unless specifically approved by the Council.

IX. POLICY ON JOINT FINANCING DISTRICTS

The City may enter into a joint exercise of powers agreement or may enter into a joint community facilities agreement or a utility agreement (pursuant to Section 10110 of the Street & Highways Code) with regard to any proposed District, if the District is in substantial compliance with the City's public financing policies as contained herein. After staff review, all such requests that are not in substantial compliance shall be brought before the City Council and will be reviewed in a similar manner as the City initiated Districts.